

## **ARTICLE 3        USE REGULATIONS**

### **SECTION 3.0    PROHIBITED USES - ALL DISTRICTS**

### **SECTION 3.1    RESTRICTED USES - ALL DISTRICTS**

### **SECTION 3.2    SPECIAL DISTRICTS**

### **SECTION 3.3    USE CLASSIFICATION AND STANDARDS**

### **SECTION 3.0    PROHIBITED USES - ALL DISTRICTS**

- 3.01    The development or operation on a single lot of more than one dwelling or more than one of the Principal Uses described in Section 3.3 is expressly prohibited except where the Principal Uses are clearly complementary to each other, or where otherwise provided by this Bylaw.
- 3.02    Trailer camps, billboards and all open air storage of junk, including inoperable automobiles and all uses which are excessively obnoxious or injurious to their neighborhood or to all property in the vicinity are expressly prohibited in all zoning districts in the Town. Inoperable automobiles and other materials related thereto stored in an auto salvage yard operating under an approved Special Permit shall not be considered junk under this Section.

### **SECTION 3.1    RESTRICTED USES - ALL DISTRICTS**

#### **3.11    Building Near Ponds**

No permanent structure shall be located within 100 feet of any pond or Surface Water Impoundment of flood retention area without a Special Permit from the Zoning Board of Appeals permitting such structure within 100 feet. Such Permit shall not be issued unless the Zoning Board of Appeals takes into consideration the following in addition to the findings required by Section 3.22, if applicable, and by Article 10.

3.111    Elevation and placement of buildings

3.112    Drainage

3.113    Sewage disposal

3.114    Erosion and sedimentation control

3.115    Effect of fill, roadways, or other encroachments

3.116    Equipment location

3.117    Refuse disposal

3.118    Extent of paving

#### **3.12    Earth Removal and Filling of Land**

3.121    Any application to the Zoning Board of Appeals for a Special Permit, or to the Planning Board for Site Plan Review or Definitive Subdivision Plan Approval, as specified in Sections 3.1225, 3.1226, 3.374 and 5.10, shall include the following specific information:

3.1211    The location of the proposed excavation or filling;

3.1212    The legal name and address of the owner of the property;

3.1213    The legal name and address of the petitioner;

3.1214    Names and addresses of all abutting property owners including those on the opposite side of any streets;

- 3.1215 A plan of land involved prepared by a Registered Land Surveyor, showing all manmade features, property lines, vegetative cover, watercourse, drainage swales, soil characteristics and existing topography by two foot contours plus a strip 100' wide surrounding said land;
- 3.1216 A plan of land showing two foot contours of the finish grading and drainage of the site with clear identification of the top and toe slopes after the proposed completion of the excavation or filling project;
- 3.1217 The estimated quantity of material to be removed or added and topsoil to be stripped and replaced.
- 3.1218 The proposed form of bond to be used.
- 3.122 No Special Permit shall be required for the following:
  - 3.1221 Moving earth products within the limits of an individual property or land in single ownership.
  - 3.1222 Removal of earth products from an operating farm nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
  - 3.1223 The moving and removal of earth products for any municipal purpose by, or on behalf of, any Department of the Town of Amherst;
  - 3.1224 The moving and removal of earth products when incidental to and in connection with the construction of a building or street or other activity authorized by this Bylaw.
  - 3.1225 Filling of land in conjunction with a development that requires a Special Permit. Any such filling of land, however, shall be approved as part of the Special Permit required for the development and shall meet the conditions of Section 3.12.
  - 3.1226 Filling of land in conjunction with a development that requires definitive subdivision plan approval. Any such filling of land, however, shall be approved as part of the subdivision plan and shall meet the conditions of Section 3.12.

### 3.13 Development in Floodways

All encroachments including fill, new construction, substantial improvements to existing structures and other developments are prohibited in the floodway, unless certification is provided demonstrating that such encroachment will not result in any increase in flood levels during the occurrence of a 100-year flood. Such certification shall be provided by a registered professional engineer or any other person, who, in the opinion of the Planning Board, is qualified to make such determination. Floodways are shown on the Floodway and Flood Boundary Map, as amended, produced by the Federal Emergency Management Agency. This section shall not supersede any of the requirements of the Flood Prone-Conservancy District.

### 3.14 Development Near Public Water Supply Sources

Notwithstanding any other provision of this Zoning Bylaw, in all zoning districts, any use of land located within Zones I, II, and III for a public water supply well, wellfield, or spring, or within Zones A, B, and C of a surface public water supply source shall be subject to the provisions of 310 CMR 22, including 310 CMR 22.20A-20G and 22.21, as amended, and all such Amherst board of Health regulations as may apply.

## **SECTION 3.2 SPECIAL DISTRICTS**

### **3.20 Design Review Districts**

#### **3.200 General**

The Design Review District (DR) and Town Common Design Review District (TCDR) are overlay districts and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force, and shall not be modified by the conditions of the DR or TCDR Districts unless superseded by the restrictions and prohibitions of said districts.

#### **3.2000 Establishment of Districts**

The Design Review District (DR) and Town Common Design Review District (TCDR) shall consist of the geographic areas shown for these districts on the Official Zoning Map.

#### **3.2001 Purpose**

The purpose of this section and these districts is to preserve and enhance the Town's cultural, economic and historical resources by providing for a detailed review of all changes in land use, the appearance of structures and the appearance of sites which may affect these resources. The review procedures are intended to:

- 1) Enhance the social and economic viability of the Town by preserving property values and promoting the attractiveness of the Town as a place to live, visit and shop;
- 2) Encourage the conservation of buildings and groups of buildings that have aesthetic or historic significance;
- 3) Prevent alterations that are incompatible with the existing environment or that are of inferior quality or appearance; and
- 4) Encourage flexibility and variety in future development.

#### **3.201 Design Review Board**

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Design Review Board is hereby established. The Design Review Board shall review applications for all actions that are subject to the provisions of this section and shall make recommendations to the appropriate permit-granting authority concerning the conformance of the proposed action to the design review standards contained herein.

The Design Review Board shall consist of five members, two of whom are registered architects, landscape architects or persons with equivalent professional training, and one of whom operates a business or owns commercial property in the affected area. Appointments to the Design Review Board shall be made by the Select Board. Of the five Design Review Board members, one member shall represent the Planning Board and one member shall represent the Historical Commission. The Planning Board and Historical Commission shall vote to recommend their representatives and forward those recommendations to the Select Board prior to appointment. These two representative members need not be members of the Planning Board or Historical Commission.

The terms of all members of the Design Review Board shall be three years, except that when the Board is originally established, the Select Board shall make two of their appointments for a two year term and the remaining appointment shall be for a one year term.

### 3.202 Reviewable Actions

The following types of actions shall be subject to review by the Design Review Board and shall be subject to the design standards herein.

#### 3.2020 Actions in the DR Districts

All new structures, alterations or additions to existing structures, changes in outdoor land use or changes in site design which require a building permit, Site Plan Review, Special Permit or Variance and which affect the exterior architectural appearance of a building or site shall be subject to review by the Design Review Board, provided that the action occurs within the General Business (B-G) District or abutting Limited Business (B-L) zoning districts.

#### 3.2021 Actions in the TCDR District

Any construction, alteration, demolition or removal that affects the exterior architectural appearance of a building or site shall be subject to review by the Design Review Board provided that the site is on or within 150 feet of the Amherst Town Common, as measured from the outside edges of the curbs bordering the three sections of the Common's greenspace, parking lots and interior road ways inclusive.

Exterior architectural appearance shall be defined as the architectural character and general composition of the exterior of a building, including but not limited to the kind, color and texture of building materials, including paint color, and the type, design and character of all windows, doors, light fixtures, signs, awnings, utility and ventilation structures and all other appurtenant elements.

The appearance of a site shall be defined as the character, layout and general composition of the site, including but not limited to the kind, color and texture of such materials as plantings, paving, benches, site lighting, free-standing signs, utility structures and all other appurtenant elements.

#### 3.2022 Actions by Town Government

Any construction, alteration, demolition or removal of a structure or site by the Town of Amherst shall be subject to review by the Design Review Board. This includes all actions throughout the Town of Amherst, except for routine maintenance of existing structures or sites. Any repair, renovation or rehabilitation which will result in substantial alteration to the form or appearance of a structure or site shall not be considered routine maintenance. Where the status of such an action by the Town is in doubt, the department or agency responsible shall request a determination from the Zoning Enforcement Officer prior to beginning work.

### 3.203 Procedures for Review of Actions Subject to Design Review

3.2030 Applications for all actions subject to review by the Design Review Board shall be made by submitting a complete application form along with the required application materials and fee to the Planning Department where application forms may be obtained.

3.2031 All applications to the Design Review Board shall include all information required by the Rules and Regulations of the Design Review Board, as applicable, in addition to any other information that the Board may require, and any information that is required under this Bylaw as part of an application for a building permit, Site Plan Review, Special Permit or Variance. The Design Review Board may waive any and all of the requirements for design review submittal and approval.

3.2032 Upon receipt of an application for design review, the Planning Department shall immediately transmit a copy of the application to the Building Commissioner or the appropriate Town staff for the applicable permitting authorities. The Design Review Board shall review the application and transmit its recommendations in writing to the applicant and Building Commissioner or other appropriate Town staff within thirty-five (35) days of the receipt of the application. If the application for design review is associated with an application for a Variance or a Special Permit, the Building Commissioner shall immediately transmit the Design Review Board's recommendations to the Zoning Board of Appeals.

Failure by the Design Review Board to make and transmit its recommendation within the thirty-five (35) day period allocated shall be considered a recommendation for approval of the application submitted, unless the applicant has granted an extension in public meeting or in writing.

3.2033 No design review shall be required in those instances where the Design Review Board determines that specific actions subject to Section 3.202 do not constitute substantial alterations to the form or appearance of a building or site, and where no new or additional requirements of the Zoning Bylaw must be met for the proposed action.

### 3.204 Design Review Principles and Standards

The design review principles and standards described in this section are intended to guide the applicant in the development of site and building design and the Design Review Board in its review of proposed actions. These principles and standards shall not be regarded as inflexible requirements and they are not intended to discourage creativity, invention or innovation. The Design Review Board is specifically precluded from mandating any official aesthetic style for Amherst or for imposing the style of any particular historical period. The design review principles and standards shall apply to all actions reviewable under Section 3.202.

#### 3.2040 General Principles

- 1) Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure or site and its environment. The removal or alteration of any historic material or architectural features should be avoided when possible.
- 2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
- 3) Stylistic features distinctive to the architecture of a specific building, structure or landscape, or examples of skilled craft which characterize a building, structure or site shall be conserved or preserved where feasible and appropriate, and may be considered for use as the basis for design of additions. Their removal or alteration should be avoided whenever possible.
- 4) Contemporary design for new structures or sites, alterations or additions to existing properties shall not be discouraged when such new development, alterations or additions do not destroy significant historical, architectural or cultural material, and when such design is compatible with the design character of the surrounding environment.
- 5) The design of alterations and additions shall, where reasonable and appropriate, strive to improve the quality, appearance and usability of existing buildings, structure and sites.

### 3.2041 Design Review Standards

The Design Review Board shall consider, at a minimum, the following standards in the course of the design review of a proposed action.

- 1) Height - The height of any proposed alteration should be compatible with the style and character of the building, structure or site being altered and that of the surroundings.
- 2) Proportions - The proportions and relationships of height to width between windows, doors, signs and other architectural elements should be compatible with the architectural style and character of the building or structure and that of the surroundings.
- 3) Relation of Structures and Spaces - The relation of a structure to the open space between it and adjoining structures should be compatible with such relations in the surroundings.
- 4) Shape - The shape of roofs, windows, doors and other design elements should be compatible with the architectural style and character of a building or site, and that of its surroundings.
- 5) Landscape - Any proposed landscape development or alteration should be compatible with the character and appearance of the surrounding area. Landscape and streetscape elements, including topography, plantings and paving patterns, should provide continuity and definition to the street, pedestrian areas and surrounding landscape.
- 6) Scale - The scale of a structure or landscape alteration should be compatible with its architectural or landscape design style and character and that of the surroundings. The scale of ground-level design elements such as building entryways, windows, porches, plazas, parks, pedestrian furniture, plantings and other street and site elements should be determined by and directed toward the use, comprehension and enjoyment of pedestrians.
- 7) Directional Expression - Building facades and other architectural and landscape design elements shall be compatible with those of others in the surrounding area with regard to the dominant vertical or horizontal expression or direction related to use and historical or cultural character, as appropriate.
- 8) Architectural and Site Details - Architectural and site details including signs, lighting, pedestrian furniture, planting and paving, along with materials, colors, textures and grade shall be treated so as to be compatible with the original architectural and landscape design style of the structure or site and to preserve and enhance the character of the surrounding area. In the downtown business districts, these details should blend with their surroundings to create a diverse, functional and unified streetscape.
- 9) Signs - The design of signs should reflect the scale and character of the structure or site and its surroundings. Signs should simply and clearly identify individual establishments, buildings, locations and uses, while remaining subordinate to the architecture and larger streetscape.

The choice of materials, color, size, method of illumination and character of symbolic representation on signs should be compatible with the architectural or landscape design style of the structure or site, and those of other signs in the surroundings.

### 3.21 Educational District (ED)

- 3.211 In an Educational District any use of land and buildings is permitted which may legally be carried on by, or under the auspices of the College or University which owns or manages the property in said District provided that the appropriate officials shall file with the Planning Board, for its information, plot plans of any new construction or significant change in use at least 60 days prior to initiation of said construction or change.

- 3.212 It is intended that the Zoning Map shall include in Educational Districts only land which is in fact owned or managed by Amherst College, Hampshire College, or the University of Massachusetts (but not all such land will necessarily be so zoned).
  - 3.213 All setbacks, side and rear yards and heights within 50 feet of the boundary of an Educational District shall conform to the dimensional regulations applicable to the adjacent zoning district.
  - 3.214 Within an Educational District, adequate off street parking shall be provided so that neither curb parking on public streets nor parking on property outside the Educational District shall be needed in connection with uses within the Educational District.
  - 3.215 For wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.
- 3.22 Flood Prone - Conservancy (FPC) District
- 3.220 This section does not authorize any person to trespass, infringe upon or injure the property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations and bylaws.
  - 3.221 The invalidity of any portion of the FPC District shall not invalidate any other portion or provision thereof.
  - 3.222 The purposes of this District are:
    - 3.2220 To provide that lands in the Town of Amherst subject to seasonal or periodic flooding as described hereinafter shall not be used for residences or other purposes in such a manner as to endanger the health or safety of the occupants thereof.
    - 3.2221 To protect persons and property within the Town of Amherst from the hazards of flood inundation by assuring the continuation of natural flow patterns and the maintenance of adequate and safe floodwater storage capacity.
    - 3.2222 To protect the community against pollution and costs which may be incurred when unsuitable uses occur along water courses, wetlands, ponds and reservoirs, or in areas subject to flooding.
  - 3.223 The FPC District shall consist of those geographical areas hereinafter delineated which by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution, and in general are essential to the public health, safety, and welfare. Those geographical areas include flood prone areas, natural water storage areas adjacent to ponds, rivers, streams and wetlands as well as reservoirs.
- The FPC District is considered to be:
- 3.2230 All areas designated as the FPC District on the Official Zoning Map on file in the Town Clerk's Office. The FPC District is determined by the following information: Department of Interior Map of Flood Prone Areas 1969; Soils Survey, 1965; Wetlands Map, 1973; Town of Amherst base map, 1972, as revised; historical flood information; hydrologic surveys; U.S.G.S. topographic maps; and other topographic surveys.
  - 3.2231 All land within a minimum of 75 feet horizontally of the crest of the bank of the Mill River.
  - 3.2232 All land within a minimum of 50 feet horizontally of the crest of the bank of Cushman Brook, Amethyst Brook, Adams Brook, Hearthstone Brook, Swamp Brook, and Hawley Brook downstream from North East Street.
  - 3.2233 All land within a minimum of 25 feet horizontally of the crest of the bank of flowing and intermittent streams not otherwise specified in Section 3.2230, 3.2231, 3.2232, but designated on the Town Base Map, 1972 as revised.

- 3.224 The reference documents for the FPC District shall be the Official Zoning Map and the Town of Amherst base map, dated 1972, as revised, for determining the name and location of streams and other water bodies. The Town Base Map shall be on file in the Town Clerk's office.
- 3.225 Where an elevation above mean sea level (MSL) is a boundary for the FPC District, the planimetric representation of that elevation shall be determined by the most recent topographic survey of the area. The topographic survey must be done by a registered land surveyor, or other professional approved by the Planning Board.
- 3.226 If any portion of a lot falls within the FPC District, that portion may be used to meet the lot area and yard requirements for the district in which the remainder of the lot is situated.
- 3.227 Where a water body may be subject to more than one of the preceding designations, the more stringent shall apply. All water bodies or wetlands encircled by an area designated above are hereby included within the FPC District. The Building Commissioner shall determine the "crest of the banks" of streams when necessary.
- 3.228 In instances where the Planning Board is authorized to issue a Site Plan approval in the FPC District, the following factors shall be considered in assuring the protection from flood hazards:
- Drainage
  - Elevation of buildings
  - Adequacy of sewage and refuse disposal
  - Control of erosion and sedimentation
  - Location of equipment
  - Storage of buoyant material
  - Extent of paving
  - Effect of fill, roadways or other encroachments on flood runoff and flow
  - Storage of chemicals and other hazardous substances
- 3.229 In instances where the Special Permit Granting Authority issues a Special Permit in the FPC District said Authority must find that such factors as those listed in Section 3.228 above will not appreciably affect the water table or water quality, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.
- 3.230 No dumping, filling, channeling, or alteration of the natural course of a water body or stream shall be permitted within the FPC District except where it is demonstrated that such use is consistent with agricultural or conservation purposes and public health and safety. Such use shall not appreciably affect the water table, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.
- 3.231 Structures associated with the allowable uses indicated in Section 3.3, and accessory structures, shall not be located within the Flood Prone-Conservancy District without a Special Permit from the Zoning Board of Appeals.
- 3.24 Watershed Protection (WP) District
- 3.240 General
- The Watershed Protection District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force and shall not be modified by the conditions of the WP District unless superseded by the restrictions and prohibitions of the WP District.
- 3.241 Establishment of District
- The Watershed Protection District shall consist of those geographic areas shown by the Official Zoning Map. This District is configured to include those lands, which by virtue of their natural slope and soils, relate directly to the public water supply system, insofar as being areas where water flows overland into the recharge areas as defined by the ARP District in Section 3.25 and into the Atkins Reservoir.



3.242 Purpose

The purpose of this district is to protect the public health by preventing contamination of the surface water flowing overland into Atkins Reservoir or into the aquifer of the Lawrence Swamp Basin.

3.243 Restrictions and Prohibitions

The following are restricted or prohibited, as the case may be, in the WP District, except as part of normal agricultural operations.

3.2430 The release upon or within any land or water in the WP District of any hazardous materials is prohibited, except otherwise provided in Section 3.24.

3.2431 Industrial or commercial uses which involve, as their primary business activity, hazardous material in amounts exceeding the minimum threshold amount requiring compliance with the Mass. Dept. of Environmental Quality Engineering Hazardous Waste Regulations, 310 CMR 30, as amended, are prohibited.

3.2432 Commercial uses which involve, as their primary business activity, hazardous materials, including but not limited to, truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, fuel oil storage and sales, and wood preserving, stripping and refinishing operations are prohibited.

3.2433 The use of septic system chemical cleaners which contain hazardous materials, including but not limited to methylene chloride and 1-1-1 trichlorethane is prohibited.

3.2434 Underground storage and/or transmission of oil or other petroleum products not in a containment structure approved by the Permit Granting Board, except for liquified petroleum gases and gasoline which shall require a Special Permit in accordance with Section 3.244, is prohibited.

3.2435 Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.

Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety.

Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

The outdoor storage of de-icing materials or pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals for home use is prohibited.

3.2436 Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the WP District shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to the Lawrence Swamp Aquifer or the Atkins Reservoir.

3.2437 Pesticides, herbicides, fertilizers and other leachable lawn and garden chemicals shall be used in accordance with Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended.

3.2438 Runoff water shall not be diverted from land in this district into another watershed basin.

3.2439 Any uses of land or related activities specifically restricted or prohibited under 310 CMR 22, including 310 CMR 22. 20A-20G and 22.21, as amended, and all such Amherst Board of Health regulations as may apply.

3.244 Special Permits/Site Plan Review

3.2440 For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, and that are located in the WP District, the following information shall be required as part of the application submission:

1. A site plan which shall show, at a minimum:
  - a. Drainage plans, showing location of drainage facilities and direction in which surface water is to be drained
  - b. Erosion and sedimentation control measures
  - c. Measures to prevent contamination of surface drainage from any potential on-site pollutants
2. a. In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:
  - i. Protecting hazardous materials from vandalism
  - ii. Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials
  - iii. Indoor storage of all hazardous materials
  - iv. Storage area features such as impervious floor surfaces with no interior drains
  - v. Measures to prevent hazardous material spills during transport, transfer or use
  - vi. Notification, containment and clean-up in the event of hazardous materials spills
  - vii. Evidence of insurance, bonding or other financial security adequate to cover the cost containment and clean-up of any hazardous material spills
  - viii. The availability and feasibility of proposed disposal methods
  - ix. Safe storage, transfer, and disposal of accumulated hazardous waste materials
- b. The operating plan shall identify all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.

- c. Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises. The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.
3. The applicant shall file six (6) copies of the proposed operating plan with the Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review). Copies shall be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Board of Health, and Building Commissioner, for their review and recommendations.

3.2441 The Zoning Board of Appeals and Planning Board may require reasonable additional information it finds necessary for adequate assessment of the proposed use.

3.2442 The following findings shall be made for any approvals granted:

1. The permit granting Board shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
2. The permit granting Board shall find that the proposed use provides for adequate sewage disposal and water service systems.
3. The permit granting Board shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the WP District during construction.
4. The permit granting Board shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp Basin or the Atkins Reservoir.

#### 3.245 Exemptions

In any instance where a property owner disputes the inclusion of their property in the WP District, the owner may engage a professional hydrogeologist, or engineer or geologist with experience in hydrogeology to determine if that property should be included in the WP District, based on the definition of and purposes of the district and on the characteristics of the property. Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions of the WP District. The Board shall find, based on Sections 3.241 and 3.242, that the property either is or is not exempt from the provisions of Section 3.24 and may, therefore, issue a Special Permit.

#### 3.246 Residential Development

For all parcels of land which are located in that area of the WP Overlay District which is associated with the Lawrence Swamp Aquifer, the following requirements shall be met:

- 3.2460 Residential subdivisions requiring approval under M.G.L. Ch. 41, the Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.

### 3.25 Aquifer Recharge Protection (ARP) District

#### 3.250 General

The Aquifer Recharge Protection (ARP) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force, and shall not be modified by the conditions of the ARP District unless superseded by the restrictions and prohibitions of the ARP District.

#### 3.251 Establishment of District

The Aquifer Recharge Protection (ARP) District shall consist of those geographic areas shown on the Official Zoning Map. This District is configured to include all those lands which by virtue of their natural slope, soils, subsurficial geology and water tables relate directly to the recharge of groundwater into the large aquifer located in the Lawrence Swamp basin consisting of the Zones I, II and III aquifer recharge areas for the Town of Amherst's public wells.

#### 3.252 Purpose

The purpose of this district is to protect the public health by preventing contamination of the ground and surface water flowing into the aquifer of the Lawrence Swamp Basin, which is the major water supply for the Town.

#### 3.253 Prohibitions

The following uses are prohibited in the ARP District, except as part of normal agricultural operations.

3.2530 Business and industrial uses, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair, which generate, treat, process, store or dispose of hazardous waste, except for the following:

1. Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00, as amended, may be allowed by the Special Permit Granting Authority in accordance with Section 3.250 of this bylaw;
2. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390, as amended;
3. Waste oil retention facilities required by M.G.L. Ch. 21, Sec. 52A, as amended, and;
4. Treatment works approved by the Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00, as amended, for the treatment of contaminated ground or surface waters.

3.2531 Industrial or commercial uses which dispose of process waste waters on site.

3.2532 Truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, commercial fuel oil storage and sales, solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps.

3.2533 Underground storage of liquid petroleum products, except for the following:

1. Storage for normal household use, outdoor maintenance, and heating of a structure;
2. Waste oil facilities required by statute, rule or regulation;
3. Emergency generators required by statute, rule or regulation;

4. Treatment works approved under 315 CMR 5.00 for treatment of ground or surface waters;
  5. Underground storage tanks for gasoline which existed at the time of adoption of this bylaw may be replaced, provided that any such replacement tank is of no greater volume, and shall be provided with a secondary containment system in compliance with the Massachusetts Fire Safety Code (527 CMR); provided that such storage, listed in items 1. through 5. above, is in free-standing containers within buildings or above ground and in either case is provided with secondary containment facilities, impermeable and capable of holding a spill equal to 1.5 times the total volume of the primary container. The replacement of any underground storage tanks for heating oil which existed at the time of adoption of this bylaw shall meet the requirements of the Board of Health.
- 3.2534 The outdoor storage of salt, de-icing materials, pesticides, herbicides, fertilizers and other hazardous lawn and garden chemicals for home use is also prohibited.
- 3.2535 Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical including but not limited to septic system chemical cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous waste.
- 3.2536 Stockpiling and disposal of snow or ice removed from highways or streets located outside the ARP District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- 3.2537 Wastewater treatment plants or works subject to a groundwater discharge permit under 310 CMR 5.00, except for the following:
1. The replacement or repair of an existing system that will not result in any increase in the design capacity of said system;
  2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in any increase over the design capacity of the existing system, and;
  3. Treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00, as amended.
- 3.2538 Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.
- 3.2539 Excavation of earth, sand, gravel and other soils or geologic materials shall not extend closer than ten (10) feet above the long-term (20 year) average annual high water table on the site, except to provide for structural foundations, utility conduits and public works. This prohibition also shall not apply to the installation or maintenance of on-site septic systems.
- 3.254 Restricted Uses
- The following uses are restricted in the ARP District:
- 3.2540 Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety. Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice control chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

- 3.2541 Fertilizers, pesticides, herbicides and other leachable lawn and garden chemicals shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30,31), as amended, with manufacturer's label instructions, and all other necessary precautions to minimize adverse impacts on surface and groundwater.
- 3.2542 Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the ARP District, shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to the Lawrence Swamp Aquifer. Any facility for the storage of such materials shall have secondary containment and shall be covered.
- 3.255 Drainage
- 3.2550 To the extent possible, runoff from impervious surfaces shall be recharged on the site by being diverted to areas covered with vegetation for surface infiltration. No more than 15% of the net runoff from a lot, calculated after development, may be diverted out of the ARP District. All detention or retention basins, ponds and similar drainage structures shall be permanently maintained in full working order by the property owner, unless otherwise specified by the permit granting authority.
- 3.2551 The rendering impervious of more than 15% of the lot area or 2,500 square feet, whichever is greater, is permitted under a Special Permit, provided that a system for artificial recharge of precipitation to groundwater is developed which the Special Permit Granting Authority finds adequately protects against the degradation of groundwater quality. For non-residential uses, recharge shall be stormwater infiltration basins or similar systems covered with natural vegetation. Dry wells shall be used only when other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease and sediments traps to facilitate removal of contamination. Any and all recharge areas, basins, wells and traps shall be permanently maintained in full working order by the property owner.
- 3.256 Split Zoning
- For any lot that is divided by the ARP District boundary, whose frontage is not located in the ARP District and for which a proposed use (allowed by the underlying zoning district) is restricted by either the location of the District boundary or the dimensional requirements of the ARP District, an owner may apply to the Zoning Board of Appeals, for a Special Permit for a waiver of the restrictions or dimensional requirements of the ARP District provided the Board makes the findings required in Section 3.2585.
- 3.257 Dimensional Regulations
- 3.2570 Lot Coverage
- Maximum lot coverage for residentially zoned land--15%
- Maximum lot coverage for PRP zoned land--50%
- 3.2571 Building Coverage
- Maximum building coverage for residentially zoned land--10%
- Maximum building coverage for PRP zoned land--25%
- 3.258 Special Permits/Site Plan Review in the ARP District
- 3.2580 For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, the following shall be required as part of the application submission:

3.2581 A site plan which shall show, at a minimum:

- a. Drainage recharge features and provisions to prevent loss of recharge.
- b. Erosion and sedimentation control measures.
- c. Provisions to prevent soil compaction.
- d. Measures to prevent contamination from petroleum products or hazardous chemicals.
- e. Provisions to prevent seepage from sewage disposal systems.

3.2582 a. In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:

- i. Protecting hazardous materials from vandalism.
  - ii. Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials.
  - iii. Indoor storage of all hazardous materials.
  - iv. Storage area features such as impervious floor surfaces with no interior drains.
  - v. Measures to prevent hazardous materials spills during transport, transfer or use.
  - vi. Notification, containment and clean-up in the event of hazardous materials spills.
  - vii. Evidence of insurance, bonding, or other financial security adequate to cover the cost of containment and clean-up of hazardous materials spills.
  - viii. The availability and feasibility of proposed disposal methods.
  - ix. Safe storage, transfer, and disposal of accumulated hazardous waste materials.
- b. The operating plan shall identify completely all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.
  - c. Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises.

The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.

3.2583 The applicant shall file six (6) copies of the proposed operating plan with the Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review). Copies will be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Aquifer Protection Committee, Department of Public Works, Board of Health, and Building Commissioner, for their review and recommendations.

3.2584 The Zoning Board of Appeals and Planning Board may require such additional information as they find necessary for adequate assessment of the proposed use. The Zoning Board of Appeals and Planning Board may, consistent with their regulations adopted pursuant to M.G.L. Ch. 44, 53G, employ outside consultants, including, but not limited to hydrogeologists, in the review of the proposed use.

3.2585 The following findings shall be made for any approvals granted:

1. The permit granting Board shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.
2. The permit granting Board shall find that the proposed use provides for adequate sewage disposal and water service systems.
3. The permit granting Board shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the ARP District during construction.
4. The permit granting Board shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp basin.

3.259 Exemptions & Residential Development

3.2590 Exemptions

In any instance where a property owner disputes the inclusion of their property in the ARP District, the owner may engage a professional hydrogeologist or groundwater engineer to determine if that property should be included in the ARP District based on the definition and purposes of the district and on the characteristics of the property.

Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions in the ARP District. Sections 3.2583 and 3.2584 of this bylaw shall apply to all applications for exemption under this section. The Board shall find, based on Sections 3.251 and 3.252, that the property either is or is not exempt from the provisions of Section 3.25 and may therefore issue a Special Permit.

3.2591 Residential Development

For all parcels of land which are located in both the ARP District and the Low Density Residence District (R-LD), the following requirements shall be met:

Residential subdivisions requiring approval under M.G.L. Ch. 41, The Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.

3.26 Municipal Parking District

See Section 7.4 of this Bylaw for Purpose and Requirements.

3.27 Planned Unit Residential Development (PURD) District.

3.270 This district is an overlay district and shall be superimposed on the other districts as indicated in Table 2 Development Methods in this Bylaw. See Section 4.4, Planned Unit Residential Development.

3.28 Farmland Conservation (FC) District

3.280 General

The Farmland Conservation District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the FC District unless superseded by the restrictions and conditions of the FC District.



3.281 Establishment of District

The Farmland Conservation District shall consist of those geographic areas shown as FC District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farmland forming discrete blocks, and lack of protection under existing zoning, comprise the critical farmland areas of the Town of Amherst.

3.282 Purpose

The purposes of the Farmland Conservation District are to:

- 3.2820 Promote and protect the practice and continued economic viability of farming through conservation of those lands on which farming is most viable while allowing development of other portions of farm properties for residential and other non-farming use;
- 3.2821 Maintain an adequate base of agricultural land and activity in Amherst to help ensure the continued economic viability of local farming and thereby contribute to the continued availability of agricultural support services;
- 3.2822 Preserve the continued economic value of land for farmers and farmland owners by retaining portions of farm properties as developable for residential and other non-farm purposes, thereby supporting the continued economic viability of individual farms and farming in Amherst;
- 3.2823 Preserve the culture and landscape of farming, which help define the character of Amherst.

3.283 Residential Development

3.2830 Residential subdivisions requiring approval under M.G.L., Ch. 41, Subdivision Control Law, shall be laid out as cluster developments in accordance with the provisions of this section and Section 4.3, Cluster Development, or as open space community developments in accordance with Section 4.5, Open Space Community Development (OSCD), of the Zoning Bylaw.

3.2831 Cluster developments in the FC District shall conform to the provisions of Sections 3.284 and 3.285 of this bylaw.

3.2832 For flag lots with frontage located outside the FC District and a majority of lot area within the FC District, the lot area requirements for these lots are as follows:

Minimum lot area 20,000 sq.ft.  
Maximum lot area 30,000 sq.ft.

All other dimensional requirements for these lots shall be the same as those specified in Table 3 for Cluster Development flag lots in the R-N District.

3.284 Standards for Planning Board Site Plan Review (SPR)

The Planning Board shall grant Site Plan Review (SPR) Approval for a cluster development in the FC District provided it finds that in addition to meeting the provisions of Section 11.2 and 11.3 of the Zoning Bylaw, the proposed use conforms to the provisions of Section 3.285, Farmland Conservation Development Standards and Section 4.38, Cluster Development Design Standards, of this Bylaw.

3.285 Farmland Conservation Development Standards

3.2850 To the maximum practical extent, all buildings and roads shall be located on that portion of the site with soils least suitable for the production of crops or livestock.  
This provision shall not apply to the location of on-site septic disposal facilities, which

must be placed in soils meeting the Massachusetts Environmental Code.

1. To assist the permit granting board in making its determination, copies of the application and site plan shall be transmitted to the Farm Committee, which shall have thirty-five (35) days to report its findings. Upon notification by the permit granting board, the Farm Committee shall assemble an expert panel consisting of professional agronomists, soils scientists and other qualified professionals to evaluate and report on the suitability of soils, including but not limited to the historical uses thereof, and the overall agricultural viability of the farm property, consistent with the purposes of the bylaw. Failure to report in the allotted time shall constitute approval by the Farm Committee. The permit granting board may grant at least one extension of this time period in response to a written request from the Farm Committee for such an extension based on a need for additional time resulting from parcel size, project complexity, time of year, or other factors.
  2. The permit granting board may, consistent with its regulations adopted pursuant to M.G.L., Ch. 44, 53G, engage the service of independent professional agronomists, soils scientists, or other qualified consultants at the cost of the applicant, to assist in evaluating a site or project.
- 3.2851 Individual or multi-unit community septic systems may be allowed in cluster developments in the FC District where public sanitary service is not reasonably available, subject to Board of Health approval, conditions and restrictions.
- 3.2852 Within the common land provided in the Cluster Development, a maximum of 5,000 square feet per dwelling unit shall be set aside as usable open space for active and passive recreation.
- Upon request of the applicant, the Planning Board may waive this maximum, where such a change would be consistent with the purposes of this Bylaw. In making their decision, the Planning Board shall consider whether the maximum feasible amount of common land has been set aside as permanently preserved farmland, while maintaining adequate amounts of usable open space for active and passive recreation for the Cluster Development.
- 3.2853 Common land set aside as permanently preserved open farmland shall have appropriate contiguous acreage, configuration and access to enable continued viable farmland operations.
- 3.2854 All roadways, drainage systems and utilities shall be laid out in a manner so as to have the least possible impact on adjacent or on-site agricultural lands or uses.
- 3.2855 No building containing dwelling units shall intrude into a minimum 150 foot buffer strip separating residential uses from adjacent or on-site farmland. Said buffer strip may include private property and Common Land. The permit granting board or authority may reduce this distance requirement where screening, substantial vegetation, land contour or other features of the site are deemed to provide sufficient buffering, and where such a change is consistent with the purposes of this Bylaw. An exception to this distance requirement shall be permitted for no more than one (1) dwelling unit associated with the management and operation of agricultural uses of the farmland. Said dwelling unit shall be included in the maximum number of lots provided for under Section 4.327.
- 3.2856 The permit granting board or authority may approve the use of portions of the 150 foot buffer strip between the residential and farmland portions of a cluster development as usable open space for the recreational use of cluster development residents, provided the board or authority determines such use will not impact adversely on adjacent farming activity and is consistent with Section 4.31 of the Zoning Bylaw.
- 3.2857 Every reasonable effort shall be made to maintain views of open agricultural lands from nearby public ways.

3.2858 Each dwelling unit and structure shall be integrated into the existing landscape through use of building placement, landform treatment and screening.

3.2859 Applicants are encouraged to site dwelling units and other structures:

1. Within any woodland contained on the parcel;
2. Into woodlands along the edges of fields;
3. In locations where new construction can be visually screened or absorbed into natural vegetative or topographic features;
4. In locations where the greatest number of units can take advantage of solar heating, summer breezes, vegetative wind screens, and other climatic site characteristics that can be utilized through siting and design.

### 3.29 Research & Development (RD) District

#### 3.290 General

The Research & Development (R&D) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the R&D District unless superseded by the restrictions and conditions of the R&D District.

#### 3.291 Establishment of District

The Research & Development (R&D) District shall consist of those geographic areas shown as R&D District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their location with respect to institutions of higher learning, transportation corridors, utilities, village centers, services, and other factors, are appropriate for the siting of research, development, and testing businesses.

#### 3.292 Purpose

The purposes of the Research & Development (R&D) District are to:

- 3.2920 Facilitate and promote the establishment, development, and expansion of information- and technology-intensive research and development businesses in Amherst.
- 3.2921 Provide opportunities for the establishment of research and development businesses, including but not limited to those derived from or associated with the research and testing activities of departments or agencies of the University of Massachusetts, Amherst College, and Hampshire College.
- 3.2922 Require that any research and development businesses established in Amherst are located, designed, and operated in conformance with all federal, state and local regulations regarding public health and safety.
- 3.2923 Expand employment opportunities for Amherst residents in the fields of research and development.
- 3.2924 Broaden and diversify the community's property tax base.

3.293 Permit Required

Within the R&D District, any uses under Sections 3.372.0 and 3.372.1 directly involved or associated with research, development and testing activities, including any associated accessory light manufacturing which would otherwise be regulated in the underlying zoning district under a Special Permit (SP) by the Zoning Board of Appeals shall instead be regulated under Site Plan Review (SPR) approval by the Planning Board. An exception shall be any accessory research or testing to be conducted outdoors, which shall require a Special Permit granted by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw.

3.294 Review Period

Notwithstanding the provisions of Sections 10.323 and 11.230, within the R&D District, the Fire Chief, Building Commissioner, Board of Health, Town Engineer, and Conservation Department shall have forty-five (45) days to report their findings on any application made under Sections 3.372.0 and 3.372.1 which involves the use, production or storage of materials identified as flammable, toxic, hazardous or explosive.